

STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS	Response to Furlough Violations		Page 1 of 14
CHAPTER: PROGRAMS – SECURITY AND SUPERVISION	#430.11	Supersedes: 430.11, dated 07/17/2022	
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Nicholas J. Deml, Commissioner	Date Signed	Date Effective	

PURPOSE

This policy provides authorized Vermont Department of Corrections (DOC) staff response standards to be used when dealing with violating behavior of individuals on furlough. This policy delineates the levels of response that the DOC may impose upon an individual who has violated conditions of furlough.

The purposes of the response system include: (1) enhance public safety; (2) ensure that the supervised individual accepts responsibility; (3) ensure that the supervised individual is held accountable for their behavior; (4) maximize efficient use of existing staff resources by creating a process that allows for timely resolution of violations of supervision conditions; (5) maximize the opportunity for change by supervised individuals; (6) ensure that a supervised individual is maintained at the least restrictive level of supervision consistent with public safety; (7) follow best practices by first allowing supervised individuals to address their behavior in the community instead of incarceration; (8) ensure responses to behavior are progressive in nature or match the seriousness of the behavior; and (9) addresses antisocial thinking through cognitive behavioral interventions.

AUTHORITY

28 V.S.A. §§ 2a; 102(b)(1), (2) and (15); 102(c)(1), (5), (8) and (17); 723; 724; 808.

DEFINITION

Technical Violation: a violation of conditions of supervision that does not constitute a new crime.

POLICY

The DOC's policy is that supervised individuals shall be held accountable for their actions, while keeping them in the least restrictive environment consistent with public safety and offense severity. There is a continuum of responses that staff can use to address violating behavior. Responses are designed to support positive change in supervised individuals, allow them to take responsibility, and to repair the harm caused by their violation.

In recognition of the statutory requirement that DOC will "render treatment to offenders with the goal of achieving their successful return and participation as citizens of the State and community," behavioral interventions shall be used in conjunction with the formal graduated sanctions process. Behavioral interventions target high and moderate criminogenic needs of supervised individuals. They are part of core correctional practices and have been shown to reduce recidivism when used at the appropriate time and with fidelity to the practice. Behavioral interventions are not intended to be punitive, but rather a response to the behavior to support supervised individual change in cognitive thinking. These response mechanisms shall be communicated as responses to the supervised individual rather than as punitive consequences to their behavior.

At times, due to public safety concerns, the furlough revocation process is necessary. Staff shall only consider furlough revocation when the DOC can demonstrate that: a supervised individual's risk to reoffend can no longer be adequately controlled in the community and no other method to control non-compliance is suitable; or the violation, or pattern of violations, indicate the individual poses a danger to others.

GENERAL PROCEDURES

A. Responses to Furlough Violations

1. Staff have four options when there is a furlough violation:
 - a. Behavioral interventions;
 - b. Graduated sanctions;
 - c. Behavioral intervention(s) and graduated sanction(s) together; or
 - d. Furlough revocation.
2. If a behavioral intervention or graduated sanction is used, the Probation and Parole Officer (PPO) shall not use the furlough revocation process for the same instance of the violating behavior(s).
3. When a violation occurs, staff should consider:
 - a. The supervised individual's risk scores, designations, and offense history;
 - b. Offense severity (listed/non-listed);
 - c. The supervised individual's compliance with the case plan or supervision contract;
 - d. Time between last violating behavior, if any; and
 - e. Severity of violating behaviors.
4. Staff shall initiate a formal response to violating behavior as soon as practicable after becoming aware of the violation.
5. Continued violating behavior will result in an elevated response.
6. Staff shall document all violating behaviors in the Offender Management System (OMS).

B. Behavioral Interventions

1. These responses are cognitive behavioral interventions intended to address anti-social thinking, criminal behavior patterns, and criminogenic needs that present in a supervised individual's life.
 - a. Effective intervention addresses the feelings, thoughts, attitudes and beliefs that drive the external behaviors of the supervised individual.
 - b. By intervening early on these internal processes, non-compliant behavior can be addressed at a lower level before escalating into a formal graduated sanction or furlough revocation.
 - c. Research has shown that the top 3 dynamic criminogenic risk factors are attitudes (driven by values and beliefs), peer associations, and personality are most strongly linked to criminal reoffending.

Therefore, responses to non-compliant behavior need to target antisocial attitudes/belief systems.

2. When considering the use of behavioral intervention, staff shall review:
 - a. Previous behavioral interventions utilized on the supervised individual;
 - b. The core attitude, value, or belief that is driving the antisocial thinking;
 - c. Identified moderate- and high-risk criminogenic need areas as identified by a validated risk assessment;
 - d. The seriousness of the violation and the supervised individual's overall behavior, including the risk the new behavior presents to the community, the victim, and the individual;
 - e. The ability of the proposed intervention to promote compliance with supervision requirements and foster understanding of the impact of the violating behavior; and
 - f. The supervised individual's supervision history.
3. Staff shall use behavioral interventions in response to low-level violating behaviors.
4. When using a behavioral intervention, staff shall convey the intervention as a non-punitive response.
5. When using a behavioral intervention:
 - a. Staff shall meet with the supervised individual to address the violating behavior and discuss the response. This meeting is a part of the casework process, and efforts should be made to maintain a constructive, motivational approach.
 - b. Staff shall document all behavioral interventions in OMS.

C. Graduated Sanctions

1. The purpose of graduated sanctions is to provide a variety of non-carceral options that address risk, public and victim safety, and offense severity, while allowing the supervised individual to continue working towards the completion of their sentence in the community.
2. When considering a graduated sanction, staff shall review:
 - a. The seriousness of the violation and the supervised individual's overall behavior, including the risk the new behavior presents to the community, the victim, and the individual;

- b. The ability of the proposed intervention to promote compliance with supervision requirements and foster understanding of the impact of the violating behavior; and
 - c. The supervised individual's supervision history.
- 3. When issuing a sanction:
 - a. Staff shall meet with the supervised individual to address the violating behavior and sanctioning resolution. This meeting is a part of the casework process, and efforts should be made to maintain a constructive, motivational approach.
 - i. If the supervised individual signs the graduated sanction(s), it is an admission of the violating behavior.
 - ii. Staff shall use effective disapproval when issuing a sanction.
 - b. Staff shall document all graduated sanctions in the Violations tab of OMS prior to issuing the sanction.

D. Technical Violations and Responses

- 1. When responding to violations of conditions of supervision in which the supervised individual engaged in non-compliant behavior that can be corrected or mitigated in the community, staff shall use:
 - a. A behavioral intervention;
 - b. A technical-level graduated sanction; or
 - c. Both, a behavioral intervention and a technical-level graduated sanction.
- 2. These responses to technical violations are divided into four categories. Technical violations should be addressed at the lowest possible level to address conduct and encourage positive behavior in the future. Staff are expected to address violating behavior at the lowest appropriate intervention level. This may result in administering repeated responses without increasing levels. The levels are:
 - a. Non-Punitive Behavioral Intervention (Low-Level) – This is the lowest level response and should be used as a first step in most cases. Responses at this level are designed to communicate that the supervised individual engaged in minor violating behavior and this is our first step in addressing it.
 - b. Level 1 Graduated Sanction – This is a moderate level response and should be used when violating behavior is more significant, or after multiple Low-Level violating behaviors without improved

compliance. Sanctions at this level place stronger supervision requirements on the supervised individual, or require the individual to complete a higher level of tasks to address the behavior.

- c. Level 2 Graduated Sanction – This is a higher-level sanction and should be used for more significant violating behavior or multiple Level 1 violating behaviors without improved compliance. Sanctions at this level place even stronger supervision enhancements and/or punitive activities on the supervised individual.
- d. Level 3 Graduated Sanction – This is the highest level of sanction available, and should only be used when other attempts to address violating behavior have failed to produce change. Sanctions at this level place significant restrictions on the supervised individual and are designed as a last resort before incarceration.

Violation and Response Guide Behavior Interventions

Low-Level Violating Behavior	Non-Punitive Behavioral Intervention
<ul style="list-style-type: none"> • Failure to report as instructed • Non-compliance with treatment/programming • Failure to engage employment search or community service • Non-compliance with non-risk related technical conditions • Positive drug/alcohol test with no direct public safety risk 	<ul style="list-style-type: none"> • Effective use of authority • Effective disapproval • Structured skill building activities • Use of cost benefit analysis • Use of cognitive restructuring • Use of problem solving • Develop an intervention plan • Written essay/educational activities • Increase contacts with the PPO for specified period of time • Referral for treatment assessment or higher level of care (must be directly related to recent destabilizing substance use)

Graduated Sanctions

Level 1 Violating Behavior (Moderate)	Level 1 Response (Moderate)
<ul style="list-style-type: none"> • Failure to comply with previous behavioral intervention informal responses • Contact with restricted persons (not including sex offense or violence risk) • Placed on probationary status in treatment/programming • Misdemeanor arrest/non-violent • Positive drug/alcohol test with direct public safety risk • Multiple Low-Level violating behaviors without improved compliance 	<ul style="list-style-type: none"> • Apology (verbal or written) • Increase curfew restrictions^ • Use of schedules for up to 30 days^ • Increased reporting as directed for alcohol or drug screening, employment search, or other related activity • Community service for up to 8 hours • Use of electronic monitoring equipment for up to 30 days^ • Referral to a restorative justice process • Any Low-Level behavioral response
Level 2 Violating Behavior (High)	Level 2 Response (High)^
<ul style="list-style-type: none"> • Multiple Level 1 violating behaviors without improved compliance • Suspension or termination from treatment/programming • Significant violating behavior that does not involve direct public safety risk 	<ul style="list-style-type: none"> • Community service for up to 16 hours • Use of schedules for up to 60 days • Use of electronic monitoring equipment for up to 60 days • Any Low-Level or Level 1 Response
Level 3 Violating Behavior (Highest)	Level 3 Response (Highest)^
<ul style="list-style-type: none"> • Significant lower-level violating behaviors without improved compliance • Significant violating behavior that does not reach the threshold for an emergent return 	<ul style="list-style-type: none"> • House arrest* • Any lower-level response

^Requires supervisor approval

*House arrest is the highest level of sanction available for community supervision and staff shall only use it when all other attempts to change the supervised individual's behavior have failed. The supervised individual is ordered to remain at their approved residence unless given specific permission to leave to address risk-related, employment, medical, or supervision requirements. When using house arrest, staff should allow minimal exceptions to this list of reasons to leave the residence, if any. This sanction should be used as a short-term response. Unless the local site manager determines otherwise, GPS monitoring equipment shall be used for supervised individuals on house arrest. Staff shall locally case staff all supervised individuals on house arrest status, no more than 30 days from the imposition of the sanction and every 30 days thereafter if continued use is warranted.

3. Risk Level Violations and Sanctions

- a. Staff shall respond to the following with a risk level sanction:
 - i. A violation of a condition of supervision in which the supervised individual engaged in non-compliant behavior that is risk-related; or
 - ii. Attempts to correct technical-level repetitive non-compliant behavior have not been successful.
- b. Risk level conditions often include those conditions where a supervised individual has been instructed not to do something or has been restricted from doing something. Depending on the severity of the violating behavior, a risk level violation may be addressed using the graduated sanctions process or the furlough revocation process.
- c. Risk level sanctions can be:
 - i. A mix of community-based sanctions that address violating behavior; or
 - ii. The furlough revocation/case staffing process, to determine the appropriate carceral sanction.
- d. Use of restrictive sanctions requires approval from a District Manager or designee.

Violation and Response Guide

Risk Level Violating Behavior	Restrictive Sanctions
<ul style="list-style-type: none"> • Any significant violation of community supervision • Non-compliance with special conditions for sex offences and intimate partner violence • Non-compliance with special condition prohibiting contact with victim • Risk-related contact with minors • Violent or threatening behavior • Supervised individual charged with new significant criminal offense (listed/felony) • Supervised individual risk to public • Treatment/Program failure • Risk-related or violent misdemeanor charge/behavior • Refusal of the graduated sanction process • Absconding/Warrant process initiated • Loss of residence – no fault of the supervised individual • Loss of residence – based on negative supervised individual conduct 	<ul style="list-style-type: none"> • Use of electronic monitoring equipment for an extended period of time required to mitigate the presented risk • Technical level graduated sanctions (as appropriate) • Referral to programming • Emergent return

E. Emergent Return to a Correctional Facility

1. When field staff are considering returning a supervised individual from the community to a correctional facility, they shall evaluate the urgency and necessity before doing so.
2. Staff shall only return a supervised individual to a correctional facility as an emergent return when the behavior meets the criteria for a significant violation outlined in [Section F\(2\), Notice of Suspension \(NOS\) and](#)

[Furlough Revocation Criteria](#), below, or there is an immediate need for short term-containment because the supervised individual:

- a. Presents a danger to others or themselves; or
 - b. Presents a danger to the community.
3. If it is determined that the supervised individual should be returned to a correctional facility, the PPO or designee shall proceed with the furlough revocation process.
 4. The PPO or designee shall return the supervised individual to a correctional facility.
 5. The PPO or designee shall complete a Notice of Suspension (NOS) and document the violation in the supervised individual's record pursuant to the NOS Process.
 6. District Managers or designees shall review all returns within two business days to determine if the DOC should continue with the furlough revocation process or release the supervised individual on a graduated sanction.
 7. If the District Manager, or designee, determines to proceed with the furlough revocation process, staff shall follow the procedures set out in the policy on furlough violations. Upon the outcome of a furlough violation hearing, the supervised individual will either be released, or the case will go through the case staffing determination process.

F. Notice of Suspension (NOS) and Furlough Revocation Criteria

1. Prior to starting the furlough revocation process, staff shall seek and receive approval from the District Manager, or designee.
2. In determining whether to approve a request to start the furlough revocation process, the District Manager, or designee, shall determine if the supervised individual committed a significant violation, using the following criteria:
 - a. The supervised individual was arrested or cited for a new felony or listed offense;
 - b. The supervised individual's behavior directly threatens or harms an identifiable person/individual;
 - c. There is evidence of behavior(s) that pose(s) a direct risk to public safety;
 - d. When a supervised individual is returned from absconding from furlough;

- e. There is a pattern of risk-related behavior where previous interventions have failed to mitigate the risk; or
 - f. There is a pattern or history of behavior that continues after the exhaustion of lower-level technical sanctions have failed to gain the supervised individual's compliance.
3. If the District Manager or designee determines there is no significant violation, the individual shall be released at the earliest possible time.
 4. Furlough revocation should only be considered when the DOC can demonstrate:
 - a. The supervised individual's risk can no longer be adequately controlled in the community and no other method to control non-compliance is suitable;
 - b. The violation or pattern of violations indicate the individual poses a danger to others; or
 - c. The supervised individual has absconded.
 5. The furlough revocation process must comply with the DOC policy on furlough violations. If the furlough revocation process has been initiated and it is determined that an individual's behavior can be controlled in the community, staff shall suspend the furlough revocation process, and the individual shall be released to engage in the graduated sanctions process.

G. Case Staffing Determination Process

1. The Central Office Case Staffing Determination Committee shall use the sanctions grid to guide its final determinations for cases related to significant violations of furlough (and parole after the Parole Board makes a decision to revoke).

	Risk Score		
Violation #	Low Risk	Moderate Risk	High Risk
1 st Significant	90 days	180 days	1 Year
2 nd Significant	180 days	1 Year	2 Years*
3 rd + Significant	1 Year	2 Years*	4 Years*

* Denotes a decision that requires central office case staffing for release approval once the interrupt period is complete.

2. Any interruption or revocation of community supervision furlough for a technical violation that is 90 days or longer must be supported by evidence that:
 - a. The supervised individual's risk to reoffend can no longer be adequately controlled in the community, and no other method to control non-compliance is suitable;
 - b. The violation or pattern of violations indicate the supervised individual poses a danger to others; or
 - c. The supervised individual's violation is absconding from community supervision furlough and meets any of the following:
 - i. The supervised individual has not met supervision requirements, cannot be located within reasonable efforts, and has not made contact with DOC staff within:
 - a) Three days if convicted of a listed crime as defined in 13 V.S.A. § 5301 (7); or
 - b) Seven days if not convicted of a listed crime.
 - ii. The supervised individual flees from Department staff or law enforcement; or
 - iii. The supervised individual left the State without DOC authorization.
3. The Central Office Case Staffing Determination Committee may consider any aggravating or mitigating factors that could change the sanction selected. Aggravating and mitigating factors may be based on information in the Department's records related to an individual. If an aggravating or mitigating factor is based on information in an individual's case file outside of the evidence submitted in the individual's furlough revocation hearing, the committee will indicate the source of that information in its explanation of decision, and the source of that information will be considered part of the administrative record of the case staffing decision.
 - a. When considering aggravating or mitigating factors, the committee evaluates whether the risk the individual may pose to public safety can be effectively managed in the community and the severity of the danger the individual may pose to others. The presence of an aggravating or mitigating factor does not necessarily indicate the committee should impose an interrupt other than the interrupt duration recommended by the [grid in Section G\(1\)\(a\) above](#).

- b. When an aggravating factor is present, the committee may impose an interrupt which is up to twice as long as the interrupt recommended by the [grid in Section G\(1\)\(a\) above](#). Aggravating factors may include:
 - i. Engaging in multiple crimes impacting public safety in more than one jurisdiction (e.g., a crime spree);
 - ii. Use of a weapon;
 - iii. Behavior causing injury that resulted in medical services;
 - iv. Behavior with a victim/survivor who is a vulnerable person;
 - v. Behavior likely to have severe or prolonged negative impact on a victim/survivor or the general public's safety or health (e.g., potential impact to a large number of victims);
 - vi. Behavior in which the details support a longer return to a correctional facility in the interest of victim or public safety; or
 - vii. Behavior that demonstrates a failure to manage individual risk factors related to sexual offending.
- c. When a mitigating factor is present, the committee may impose an interrupt which is shorter than the interrupt recommended by the [grid in Section G\(1\)\(a\) above](#). Mitigating factors may include:
 - i. Circumstances in which behavior is predominantly motivated by substance use, and there was no significant impact on public safety;
 - ii. Circumstances in which the individual had diminished cognitive capacity (e.g., disability, dementia, developmentally young);
 - iii. There is limited or no evidence of a pattern of violating behavior; and/or
 - iv. There is evidence that the supervised individual's behavior was under duress, coercion, threat, or compulsion.
- 4. Staff shall consider any subsequent finding of a significant violation within one year of a previous significant violation at the next violation level.
- 5. Staff shall reset a supervised individual to violation level #1, Significant, for the purposes of determining the sanction when the individual completes one continuous year of community supervision without a significant violation.

H. Notification to the Defender General

1. Any interruption or revocation of a supervised individual's community supervision furlough of 90 days or longer will trigger a notification to the Office of the Defender General.
2. The Central Office Case Staffing Determination Committee shall ensure the notification is sent in a timely manner.